

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- BLACK BORDERS**
- IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- FADED TEXT OR DRAWING**
- BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- SKEWED/SLANTED IMAGES**
- COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- GRAY SCALE DOCUMENTS**
- LINES OR MARKS ON ORIGINAL DOCUMENT**
- REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- OTHER:** _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/905,255	07/13/2001	Robert E. Dvorak	BLFR 1007-1	4408
22470	7590	10/06/2004	EXAMINER	
HAYNES BEFFEL & WOLFELD LLP P O BOX 366 HALF MOON BAY, CA 94019			HIRL, JOSEPH P	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

726

Office Action Summary	Application No.	Applicant(s)
	09/905,255	DVORAK ET AL.
	Examiner	Art Unit
	Joseph P. Hirl	2121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 June 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-55 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 July 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. This Office Action is in response to an AMENDMENT entered June 22, 2004 for the patent application 09/905,255 filed on July 13, 2001.
2. The First Office Action of December 22, 2003 is fully incorporated into this Final Office Action by reference.

Status of Claim

3. Claims 1, 5, 6, 13, 16-18, 22, 24, 28, 33-37, 40, and 41 are amended. Claims 1-55 are pending.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention. The specification is silent on “simulating unit inventory and unit sales on a bottom-up per location basis”.

6. Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification is silent on “notional deliveries result from projected orders that have not yet been submitted to suppliers when simulating unit inventory and unit sales.”

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

9. Claims 1-55 are rejected under 35 U.S.C. 102(e) as being anticipated by Cessna et al (USP 6,510,420, referred to as **Cessna**).

Claim 1

Cessna anticipates simulating unit inventory and unit sales on a bottom-up per location basis for a plurality of items at a plurality of locations (**Cessna**, Figs. 1, 2; c 1, l 50-67; c 2, l 1-59) utilizing current inventory of the items at the locations (**Cessna**, Fig. 2; c 3, l 45-52), projected deliveries of the items to the locations (**Cessna**, c 3, l 45-52; c 7, l 12-50; c11, l 16-22), and projected demand for the items at the locations (**Cessna**, c 3, l 45-52; c 7, l 12-50; c11, l 16-22); and applying planned transaction pricing to derive projected dollar inventory and projected dollar sales of the items at the locations (**Cessna**, c 3, l 45-52; c 7, l 12-50; c11, l 16-22; Examiner's Note (EN): the purpose of the model is a merchandise planning system with a structure objects... data... system... algorithm which will derive dollar inventory and dollar sales as a step in clustering similar characteristics; new matter applies to the "simulating" clause).

Claim 2

Cessna anticipates rolling up at least one of the projected unit inventory, unit sales, dollar inventory or dollar sales from the items to one or more aggregate levels (**Cessna**, c 3, l 45-52; c 7, l 12-50; c11, l 16-22; EN: a necessary event to achieve clustering).

Art Unit: 2121

Claim 3

Cessna anticipates including projecting gross margins on sales of the items across the locations, utilizing the projected dollar sales of the items at the locations, actual costs for the items sold from the current inventory, and projected costs for the items sold from the projected deliveries (**Cessna**, c 2, l 1-16; c 3, l 45-52; c 7, l 12-50; c11, l 16-22).

Claim 4

Cessna anticipates rolling up at least one of the projected unit inventory, unit sales, dollar inventory, dollar sales, or gross margin on sales from the items to one or more aggregate levels (**Cessna**, c 2, l 51-59).

Claims 5, 6

Cessna anticipates at least some of the projected deliveries are notional deliveries of the items to meet the projected demand for the items, unconstrained by inventory budgets wherein the notional deliveries result from projected orders that have not yet been submitted to suppliers when simulating unit inventory and unit sales (**Cessna**, c 2, l 51-59; EN: such action would be formed in a hierarchical relationship in the planning model as part of the multi dimensional features; new matter applies to the “wherein” clause)

Claims 7, 8, 9, 10, 11, 12,

Cessna anticipates the notional deliveries only start after specified order coverage cycles for the items (**Cessna**, c 2, l 51-59; EN: this would be part of the dynamic creation of the hierarchical levels and the level to level relationships).

Claim 13, 14, 15

Cessna anticipates the simulating of the unit sales is carried out for weekly periods, including event adjustments such as promotions (**Cessna**, c 2, l 51-59; c 5, l 31-40; c 2, l 1-6; EN: simulating and projecting are synonymous).

Claim 16

Cessna anticipates the simulating of the unit sales is carried out for daily or more frequent periods (**Cessna**, c 2, l 51-59; EN: the structure would vary...dynamic adjustment).

Claim 17

Cessna anticipates the simulating of unit sales takes into account stockouts of the items at the locations (**Cessna**, c 2, l 51-59; c 6, 39-49).

Claim 18

Cessna anticipates the simulating of unit sales takes into account in dates and out dates for the items (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claim 19, 20

Cessna anticipates the out date is a desired date for selling out one or more of the items (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claim 21

Cessna anticipates a plurality of the in dates and out dates for a particular item are associated with a plurality of the locations (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claim 22

Cessna anticipates the simulating of unit sales takes into account last purchase order receipt dates associated with the items (**Cessna**, c 2, I 51-59; c 5 I 31-39; EN: part of the dimensional modeling).

Claim 23

Cessna anticipates a plurality of the last purchase order receipt dates for a particular item are associated with a plurality of the locations (**Cessna**, c 2, I 51-59; c 5 I 31-39; EN: part of the dimensional modeling).

Claim 24

Cessna anticipates simulating unit sales takes into account causal events affecting demand for the items (**Cessna**, c 2, I 51-59; c 6, I 17-29; EN: part of the multidimensional attributes).

Claim 25, 26, 27

Cessna anticipates at least one of the causal events is a promotion, markdown, presentation (**Cessna**, c 2, I 51-59; c 6, I 17-29; EN: part of the multidimensional attributes).

Claim 28

Cessna anticipates setting sales or revenue budgets for groups of items (**Cessna**, c 2, I 51-59; c 5 I 16-39); projecting sales of the items (**Cessna**, c 2, I 51-59; c 5 I 16-39); setting notional deliveries, in addition to projected deliveries for outstanding orders, to meet the projected sales (**Cessna**, c 2, I 51-59; c 5 I 16-39; EN: resides in a hierarchical manner within a dimension); prorating the sales or revenue budgets for the

groups of items (**Cessna**, c 2, l 51-59; c 5 l 16-39); and reporting the prorated sales or revenue budgets and the projected sales for the items, rolled up, if necessary, to a level of detail equivalent to the prorated sales or revenue budgets (**Cessna**, c 2, l 51-59; c 5 l 16-39).

Claim 29

Cessna anticipates calculating reduced notional deliveries consistent with prorated inventory budgets (**Cessna**, c 2, l 51-59; c 5 l 16-39); and calculating lost sales resulting from the reduced notional deliveries (**Cessna**, c 2, l 51-59; c 5 l 16-39).

Claims 30, 31

Cessna anticipates the notional deliveries are constrained by lead time for ordering and obtaining delivery of the items (**Cessna**, c 2, l 51-59; c 5 l 16-39).

Claim 32

Cessna anticipates the simulating sales of the items are projected on a daily or more frequent basis (**Cessna**, c 2, l 51-59; c 5 l 16-56).

Claims 33, 34, 35, 36, 37

Cessna anticipates the simulating sales of the items are projected on a location-by-location basis (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claims 38, 39, 40, 41

Cessna anticipates the notional deliveries are based in part on optimal stocking levels (**Cessna**, c 2, l 51-59; c 5 l 41-67; EN: predetermined is optimal).

Claim 42, 43

Cessna anticipates the notional deliveries are consistent with presentation quantities for the items at respective selling locations associated with the items (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claim 44, 45

Cessna anticipates the notional deliveries are set with reference to a causal calendar of events (**Cessna**, c 2, l 51-59; c 5 l 31-55).

Claim 46, 47

Cessna anticipates the notional deliveries take into account planned promotions (**Cessna**, c 2, l 51-59; c 5 l 14-55).

Claim 48, 49

Cessna anticipates the notional deliveries are consistent minimum order quantities for the items (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claim 50, 51

Cessna anticipates prorating is based on the projected sales of the items (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Claims 52, 53, 54, 55

Cessna anticipates the projected sales of the items include recapture of projected lost sales due to stockouts of the item (**Cessna**, c 2, l 51-59; c 5 l 31-39).

Response to Arguments

10. The objection to the specification is withdrawn.
11. The objection to the abstract is withdrawn.
12. The rejection to claims 40-43 under 35 USC 112, second paragraph, is withdrawn.
13. The rejection to claims 28-55 under 35 USC 101 is withdrawn.
14. Applicant's arguments filed on June 22, 2004 related to Claims 1-55 rejected under 35 USC 102 (e) have been fully considered but are not persuasive.

In reference to Applicant's argument:

Claim 1: Applicants have amended claim 1 to replace "projecting" with "simulating". Cessna does not describe simulating unit inventory and unit sales on a bottom-up, per location basis for a plurality of items at a plurality of locations.

Examiner's response:

The term "simulating" does not have a special definition set forth by the applicant in the specification. In fact, @ specification, p 15, l 2-4, the applicant cites: "The statistical open-to-buy analysis uses notional orders to simulate future stocking patterns for reorderable items." Such use of "simulate" establishes a synonymous use with projecting and hence claim 1 in substance has not been changed and the prior art of Cessna as established in the First Office Action applies.

In reference to Applicant's argument:

Claims 2-4: Cessna's ad hoc grouping and aggregation of stores so that they can be treated as one item implies rolling up the individual stores into an aggregate. However, there is no methodology for projecting gross margins, taking into account actual costs for current inventory and projected costs for projected deliveries.

Examiner's response:

Applicant admits to Cessna's application to claim 2. A merchandise planning system cited by Cessna @ c 3, l 45-52 does indeed cover the applicant's generic aspects of gross margins, inventory costs, and projected costs related to operations or deliveries. Such are "merchandise planning systems."

In reference to Applicant's argument:

Claims 5-6: Applicants have studied Cessna and looked for notional deliveries, but not found anything like notional deliveries. We do not believe that notional deliveries is a common term in the art; we directed the Examiner during our interview to paragraph [0336] for Applicants' definition of notional deliveries. Without narrowing the property interpreted claims, we have used the definition in [0336] in a "wherein" clause, which makes it more visible to reviewers who double-check the Examiner's work. The lack of notional deliveries in Cessna is an additional basis for claims 5-6 being allowable over Cessna.

Simulating notional deliveries for merchandise planning support is novel in this assignee's approach, allowing a system user to put short-lead time items on par with long-lead time items, when looking forward to a planning horizon. Planning systems sometimes take into account orders that have been placed with suppliers, in addition to inventory on hand, with the hidden consequence that short-lead time items are treated differently than long-lead time items. The planning horizon may be distant enough, in time, to cover multiple replenishment cycles for short-lead time items. It is not enough to take into account those orders that have been placed with suppliers, due to the brief order cycle for short-lead time items. Notional orders are a way of representing orders that have not been placed with suppliers, to put short-and long-lead time orders on similar footing.

Examiner's response:

The "wherein" clause represents new matter as identified in the noted 35 USC 112, first paragraph rejection. Notional deliveries being deliveries associated with orders not yet submitted to suppliers would be included in the merchandise planning software programs cited by Cessna @ c1, l 25-32 and part of the performance analysis. Applicant's simulating is merely a generic projection. Para 16. applies.

In reference to Applicant's argument:

Art Unit: 2121

Claims 7-12: These claims further limit application of notional deliveries. The lack of these further limitations on notional deliveries (or notional deliveries, at all) in Cessna is an additional basis for claims 7-12 being allowable over Cessna.

Examiner's response:

First Office Action and above remarks apply.

In reference to Applicant's argument:

Claims 13-15: Claim 13 is amended to replace projecting with "simulating", consistent with claim 1. Claims 14-15 depend from claim 13. The cited passages, Cessna, c 2, I 51-59; c 5, I 31-40; c 2, I 1-6, present an empty shell that does not describe or enable simulating of unit sales for weekly periods, taking into account causal events or promotions during the simulation period.

Examiner's response:

Applicant "simulating" is synonymous with projecting as evidenced by the specification @ p 15, I 3. Unit sales, periods, causal events and promotions are part of the method described by Cessna @ c 2, I 19-59 and included in the resulting hierarchy.

In reference to Applicant's argument:

Claims 16-27: Claims 17-27 depend from claim 16, which depends from claim 1. Claim 16 is amended to replace projecting with "simulating", consistent with claim 1. The cited passages, Cessna, c 2, I 51-59 present an empty shell that does not describe or enable simulating of unit sales for daily or more frequent periods.

Examiner's response:

Applicant "simulating" is synonymous with projecting as evidenced by the specification @ p 15, I 3. Cessna @ claims 10-20 identifying a planning program wherein the generic characteristics would include unit sales over periods of time.

In reference to Applicant's argument:

Claims 17-27 include many simulation factors that are not described or enabled by Cessna. There is no mention in Cessna of factors modeled by simulation such as stockouts, in and out dates for items, last purchase order receipt dates, or causal events (promotions, markdowns or item presentations.) Cessna does not even teach what these retailing events are - does not even mention them.

Examiner's response:

Applicant "simulating" is synonymous with projecting as evidenced by the specification @ p 15, l 3. First Office Action applies. See Cessna @ c 6, l 39-59.

In reference to Applicant's argument:

Claim 28: Claim 28, as originally presented, defines notional deliveries as, "[I]n addition to projected deliveries for outstanding orders", which is consistent with paragraph [0336] and the amendment of dependent claims 5-6. This is novel, as discussed in the context of claim 1.

Cessna provides an add-on aid for data manipulation, but does not describe or enable the claimed sequence of actions that produce a report of prorated sales or revenue budgets and the projected sales. Referring to the cited passages, at col. 2, lines 51-59, in the Summary of Invention, is described a sequence of steps for dynamic hierarchical grouping of stores to be handled as a single unit. At col. 5, lines 16-39, the Detailed Description identifies a multi-dimensional cube mechanism and lists in three words the potential dimensions of "product, location [and] time". These three words are not enough to describe or enable the claimed invention.

Examiner's response:

If "notional deliveries" is defined in specification @ p 0336, but yet has another definition in the independent claim 28, what is the definition of "notional deliveries"? At best the specification and the claims are at attempting to define something that really has not been defined clearly. Comments of claim 1 apply. Applicant admits that the appropriate concepts are resident in the prior art of Cessna. Concise and clear statements of concepts are all that is required for prior art to anticipate the applicant's invention.

In reference to Applicant's argument:

Art Unit: 2121

Claims 29-31: Claims 29-31 include constraints on notional deliveries that are not described or enabled by Cessna. There is no mention in Cessna of notional deliveries or constraints such as prorated inventory budgets or lead time. Cessna does not even teach what these retailing constraints are - does not even mention them.

Examiner's response:

The above related "wherein" clause related to "notional deliveries" is clearly new matter. Cessna planning applications embodies a multidimensional analysis for the planning of the future of a business (Cessna @ c 6, l 39-49).

In reference to Applicant's argument:

Claims 32-37: Claims 32-27, as amended, replace "projecting" with "simulating". The cited passages, Cessna, c 2, l 51-59; c 5, l 31-40, are an empty shell that does not describe or enable simulating of unit sales for daily or more frequent periods or on a location-by-location basis.

Examiner's response:

Applicant "simulating" is synonymous with projecting as evidenced by the specification @ p 15, l 3. First Office Action applies. See Cessna @ c 6, l 39-59.

In reference to Applicant's argument:

Claims 38-49: These claims further limit application of notional deliveries. The lack of these further limitations on notional deliveries (or notional deliveries, at all) in Cessna is an additional basis for claims 38-49 being allowable over Cessna.

Examiner's response:

The above comments and First Office Action applies.

In reference to Applicant's argument:

Claims 50-51: These claims further limit application of prorating. The lack of these further limitations on prorating (or prorating, at all) in Cessna is an additional basis for claims 50-51 being allowable over Cessna.

Examiner's response:

The above comments and First Office Action applies. Prorating is part of dimensional modeling described by Cessna @ c5, l 31-40.

In reference to Applicant's argument:

Claims 52-55: Recapture of projected lost sales due to stockouts is an extremely sophisticated projection, modeling or simulation concept.

Examiner's response:

First Office Action applies. Cessna is a sophisticated framework for dynamic hierarchical grouping and calculation based on multidimensional member characteristics as evidenced by Cessna's section 2 entitled "overview of Dimensional Modeling which would include stockout considerations related to its appropriate level in the model hierarchy.

In reference to Applicant's argument:

Among the references cited but not relied upon, we offer the following observations, based on a cursory review of the references. Shukla, USP 6,456,997 is related to Cessna, with an overlapping disclosure. Shukla describes another tool for ad hoc analysis, with an invisible hierarchy, that is another empty shell. Kagami et al., USP 5,974,422 describes a survey tool for fashion designs, which has no inventory-related features. Homma et al., USP 5,179,643 describes applying a classic statistical tool, cluster analysis for ad hoc analysis of sales and merchandising information. Hideki, JP 2000-266843, in the copy available to Applicants, is an unreadable, garbled translation of a document that does not appear to qualify as prior art, based on its date of publication.

Examiner's response:

Such documents are provided to identify other potential prior art that while not relied upon, might be assembled related to a lack of novelty or an obviousness of the applicant's invention. Copy of JP 2002-073951 should have been provided and is attached to this office action. JP 2000-266843 was referenced in the subject JP patent.

Applicant is reminded that the mere date of the publication may not necessarily disqualify the document as prior art. The material within the document maybe applicable and appropriate.

Examination Considerations

15. The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

16. Examiner's Notes are provided to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner's Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.

17. Examiner's Opinion: Paras 15. and 16. apply. The claims and only the claims form the metes and bounds of the invention. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

18. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. Claims 1-55 are rejected.

Art Unit: 2121

Correspondence Information

20. Any inquiry concerning this information or related to the subject disclosure should be directed to the Examiner, Joseph P. Hirl, whose telephone number is (703) 305-1668. The Examiner can be reached on Monday – Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Anthony Knight can be reached at (703) 308-3179. Any response to this office action should be mailed to:

Commissioner of Patents and Trademarks,

Washington, D. C. 20231;

or faxed to:

(703) 746-7239 (for formal communications intended for entry);

or faxed to:

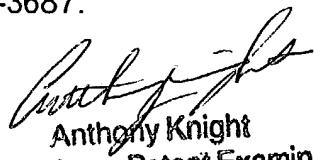
(703) 746-7290 (for informal or draft communications with notation of

"Proposed" or "Draft" for the desk of the Examiner).

Note: During the last two weeks of October 2004, Art Unit 2121 will move to Carlyle, Randolph Building, 5th floor and my phone and fax number will change to: 571-272-3685 and 571-273-3685, respectively. Similarly, Anthony Knight's phone and fax numbers will change to: 571-272-3687 and 571-273-3687.

Joseph P. Hirl

September 29, 2004


Anthony Knight
Supervisory Patent Examiner
Group 3600